

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JULY 9, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY MAY 20, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1020**

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**Introduced by Assembly Members Emmerson and Ma**

February 27, 2009

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An act to amend Section 18942 of, and to add Sections 116064.1 and 116064.2 to, the Health and Safety Code, relating to swimming pools.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1020, as amended, Emmerson. Public swimming pools: anti-entrapment devices and systems.

(1) Under existing law, public wading pools, as defined, are required to equip drain suction outlets with specified anti-entrapment grates to prevent physical entrapment of the bathers. Under existing law, the Swimming Pool Safety Act, public swimming pools are exempted from that act's requirements that newly constructed pools be equipped with specified safety features, including anti-entrapment grates for drain suction outlets.

This bill would require an existing public swimming pool, as defined, to be equipped with anti-entrapment devices or systems that meet ASME/ANSI or ASTM performance standards. It would also require an existing public swimming pool with a single main drain that is not

an unblockable drain to meet at least one of the specified standards. The bill would impose timeframes by which its requirements must be met, subject to exceptions, as specified.

The bill would require that every newly constructed public swimming pool have at least 2 main drains per pump that are hydraulically balanced and symmetrically plumbed through one or more “T” fittings, and be separated by a distance of at least 3 feet in any dimension between the drains.

This bill would authorize the State Department of Public Health to approve amendments or successors to these standards.

The bill would require the department to develop, and a public swimming pool owner to file, a form to indicate compliance with the requirements of the bill, as specified. The form would be required to include a certification by a qualified individual, as defined, that prescribed factual information provided on the form is true to the best of his or her knowledge.

This bill would declare the intent of Legislature to occupy the whole field of health and safety standards for public swimming pools and to preempt all local health and safety standards relating to public swimming pools.

This bill would authorize local health departments to impose a fee on the owners of public swimming pools to cover the actual costs of enforcement incurred pursuant to the bill, but in an amount not to exceed \$1.

This bill would also authorize the department, until January 1, 2014, in addition to any fee imposed by local health officials pursuant to the bill, to assess a fee, as prescribed, but in an amount not to exceed \$5, to defray the department’s costs of carrying out its duties under the bill. The applicable local health department would be required to bill the owner of each public swimming pool in its jurisdiction for the amount of the state fee and remit money collected to the Controller. The bill would require a local health department to submit to the department, every 6 months, a list containing specified information regarding owners of public swimming pools who have failed to pay the state fees for more than 90 days, as prescribed. The bill would require any moneys collected from this state fee by either the local health department or the department to be deposited into the Recreational Health Fund, created by the bill. Money in that fund would be available, upon appropriation by the Legislature, for carrying out the department’s duties under the bill.

Violation of these requirements would constitute a misdemeanor. By creating new crimes, the bill would impose a state-mandated local program.

*By imposing new duties on local building officials and local health officials, the bill would impose a state-mandated local program.*

(2) Existing law requires the California Building Standards Commission to publish editions of the California Building Standards Code, as prescribed. Existing law requires the commission to publish the text of specified statutes in the code.

This bill would require the commission to publish the text of specified provisions of the bill within the California Building Standards Code, as prescribed.

~~By imposing new duties on local building officials and local health officials, the bill would impose a state-mandated local program.~~

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(3) *The* California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 18942 of the Health and Safety Code is
- 2 amended to read:
- 3 18942. (a) The commission shall publish, or cause to be
- 4 published, editions of the code in its entirety once in every three
- 5 years. In each intervening year the commission shall publish, or
- 6 cause to be published, supplements as necessary. For emergency
- 7 building standards defined in subdivision (a) of Section 18913, an
- 8 emergency building standards supplement shall be published
- 9 whenever the commission determines it is necessary.
- 10 (b) The commission shall publish the text of Article 2.5
- 11 (commencing with Section 115920) of Chapter 5 of Part 10 of
- 12 Division 104, within the requirements for single-family residential
- 13 occupancies contained in Part 2 of Title 24 of the California Code
- 14 of Regulations, with the following note:

1 “NOTE: These regulations are subject to local government  
2 modification. You should verify the applicable local  
3 government requirements at the time of application for a  
4 building permit.”

5 (c) The commission shall publish the text of Section 116064.2  
6 within Part 2 of Title 24 of the California Code of Regulations.

7 (d) The commission may publish, stockpile, and sell at a  
8 reasonable price the code and materials incorporated therein by  
9 reference if it deems the latter is insufficiently available to the  
10 public, or unavailable at a reasonable price. Each state department  
11 concerned and each city, county, or city and county shall have an  
12 up-to-date copy of the code available for public inspection.

13 (e) (1) Each city, county, and city and county, including charter  
14 cities, shall obtain and maintain with all revisions on a current  
15 basis, at least one copy of the building standards and other state  
16 regulations relating to buildings published in Titles 8, 19, 20, 24,  
17 and 25 of the California Code of Regulations. These codes shall  
18 be maintained in the office of the building official responsible for  
19 the administration and enforcement of this part.

20 (2) This subdivision shall not apply to a city or county that  
21 contracts for the administration and enforcement of the provisions  
22 of this part with another local government agency that complies  
23 with this section.

24 SEC. 2. Section 116064.1 is added to the Health and Safety  
25 Code, to read:

26 116064.1. The Legislature finds and declares that the public  
27 health interest requires that there be uniform statewide health and  
28 safety standards for public swimming pools to prevent physical  
29 entrapment and serious injury to children and adults. It is the intent  
30 of the Legislature to occupy the whole field of health and safety  
31 standards for public swimming pools and the requirements  
32 established in this article and the regulations adopted pursuant to  
33 this article shall be exclusive of all local health and safety standards  
34 relating to public swimming pools.

35 SEC. 3. Section 116064.2 is added to the Health and Safety  
36 Code, to read:

37 116064.2. (a) As used in this section, the following words  
38 have the following meanings:

1 (1) “ASME/ANSI performance standard” means a standard that  
2 is accredited by the American National Standards Institute and  
3 published by the American Society of Mechanical Engineers.

4 (2) “ASTM performance standard” means a standard that is  
5 developed and published by ASTM International.

6 (3) “Main drain” means a submerged suction outlet typically  
7 located at the bottom of a swimming pool that conducts water to  
8 a recirculating pump.

9 (4) “Public swimming pool” means an outdoor or indoor  
10 structure, whether in-ground or above-ground, intended for  
11 swimming or recreational bathing, including a swimming pool,  
12 hot tub, spa, or nonportable wading pool, that is any of the  
13 following:

14 (A) Open to the public generally, whether for a fee or free of  
15 charge.

16 (B) Open exclusively to members of an organization and their  
17 guests, residents of a multiunit apartment building, apartment  
18 complex, residential real estate development, or other multifamily  
19 residential area, or patrons of a hotel or other public  
20 accommodations facility.

21 (C) Located on the premises of an athletic club, or public or  
22 private school.

23 (5) “Qualified individual” means a contractor who holds a  
24 current valid license issued by the State of California or a  
25 professional engineer licensed in the State of California who has  
26 experience working on public swimming pools.

27 (6) “Safety vacuum release system” means a vacuum release  
28 system that ceases operation of the pump, reverses the circulation  
29 flow, or otherwise provides a vacuum release at a suction outlet  
30 when a blockage is detected.

31 (7) “Skimmer equalizer line” means a suction outlet located  
32 below the waterline and connected to the body of a skimmer that  
33 prevents air from being drawn into the pump if the water level  
34 drops below the skimmer weir. However, a skimmer equalizer line  
35 is not a main drain.

36 (8) “Unblockable drain” means a drain of any size and shape  
37 that a human body cannot sufficiently block to create a suction  
38 entrapment hazard.

39 (b) Subject to subdivision (c), an ASME/ANSI or ASTM  
40 performance standard relating to anti-entrapment devices or

1 systems or an amendment or successor to, or later published edition  
2 of an ASME/ANSI or ASTM performance standard relating to  
3 anti-entrapment devices or systems shall become the applicable  
4 standard in California 90 days after publication by ASME/ANSI  
5 or ASTM, respectively, provided that the performance standard  
6 or amendment or successor to, or later published edition is  
7 approved by the department within 90 days of the publication of  
8 the performance standard by ASME/ANSI or ASTM, respectively.  
9 Notwithstanding any other law, the department may implement,  
10 interpret, or make specific the provisions of this section by means  
11 of a policy letter or similar instruction and this action by the  
12 department shall not be subject to the rulemaking requirements of  
13 the Administrative Procedure Act (Chapter 3.5 (commencing with  
14 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
15 Code).

16 (c) Subject to subdivision (f), every public swimming pool shall  
17 be equipped with anti-entrapment devices or systems that comply  
18 with ASME/ANSI performance standard A112.19.8, as in effect  
19 December 31, 2009, or any applicable ASME/ANSI performance  
20 standard that has been adopted by the department pursuant to  
21 subdivision (b).

22 (d) Subject to subdivisions (e) and (f), every public swimming  
23 pool with a single main drain that is not an unblockable drain shall  
24 be equipped with at least one or more of the following devices or  
25 systems that are designed to prevent physical entrapment by pool  
26 drains:

27 (1) A safety vacuum release system that has been tested by a  
28 department-approved independent third party and found to conform  
29 to ASME/ANSI performance standard A112.19.17, as in effect on  
30 December 31, 2009, or any applicable ASME/ANSI performance  
31 standard that has been adopted by the department pursuant to  
32 subdivision (b), or ASTM performance standard F2387, as in effect  
33 on December 31, 2009, or any applicable ASTM performance  
34 standard that has been adopted by the department pursuant to  
35 subdivision (b).

36 (2) A suction-limiting vent system with a tamper-resistant  
37 atmospheric opening, provided that it conforms to any applicable  
38 ASME/ANSI or ASTM performance standard that has been  
39 adopted by the department pursuant to subdivision (b).

1 (3) A gravity drainage system that utilizes a collector tank,  
2 provided that it conforms to any applicable ASME/ANSI or ASTM  
3 performance standard that has been adopted by the department  
4 pursuant to subdivision (b).

5 (4) An automatic pump shut-off system tested by a  
6 department-approved independent third party and found to conform  
7 to any applicable ASME/ANSI or ASTM performance standard  
8 that has been adopted by the department pursuant to subdivision  
9 (b).

10 (5) Any other system that is deemed, in accordance with federal  
11 law, to be equally effective as, or more effective than, the systems  
12 described in paragraphs (1) to (4), inclusive, at preventing or  
13 eliminating the risk of injury or death associated with pool drainage  
14 systems.

15 (e) Every public swimming pool constructed on or after January  
16 1, 2010, shall have at least two main drains per pump that are  
17 hydraulically balanced and symmetrically plumbed through one  
18 or more "T" fittings, and are separated by a distance of at least  
19 three feet in any dimension between the drains. A public swimming  
20 pool constructed on or after January 1, 2010, that meets the  
21 requirements of this subdivision, shall be exempt from the  
22 requirements of subdivision (d).

23 (f) A public swimming pool constructed prior to January 1,  
24 2010, shall be retrofitted to comply with subdivisions (c) and (d)  
25 by no later than ~~December 19~~ *July 1*, 2010, except that no further  
26 retrofitting is required for a public swimming pool that completed  
27 a retrofit between December 19, 2007, and January 1, 2010, that  
28 complied with the Virginia Graeme Baker Pool and Spa Safety  
29 Act (15 U.S.C. Sec. 8001 et seq.) as in effect on the date of issue  
30 of the construction permit, or for a nonportable wading pool that  
31 completed a retrofit prior to January 1, 2010, that complied with  
32 state law on the date of issue of the construction permit. A public  
33 swimming pool owner who meets the exception described in this  
34 subdivision shall do one of the following:

35 (1) File the form issued by the department pursuant to  
36 subdivision (g), as otherwise provided in subdivision (h), prior to  
37 September 30, 2010.

38 (2) File a signed statement attesting to all of the following:

39 (A) The required work has been completed.

1 (B) The name and license number of the qualified individual  
2 who completed the work.

3 (C) A copy of the final building permit, if required by the local  
4 agency, or a copy of another document that describes the  
5 modifications if no building permit was required.

6 (D) A copy of the final paid invoice.

7 (g) Prior to March 31, 2010, the department shall issue a form  
8 for use by an owner of a public swimming pool to indicate  
9 compliance with this section. The department shall consult with  
10 county health officers and directors of departments of  
11 environmental health in developing the form and shall post the  
12 form on the department's Internet Web site. The form shall be  
13 completed by the owner of a public swimming pool prior to filing  
14 the form with the appropriate city, county, or city and county  
15 department of environmental health. The form shall include, but  
16 not be limited to, the following information:

17 (1) A statement of whether the pool operates with a single or  
18 split main drain.

19 (2) Identification of the type of anti-entrapment ~~device or system~~  
20 ~~that has been installed~~ *devices or systems that have been installed*  
21 *pursuant to subdivision (c) and the date or dates of installation.*

22 (3) Identification of the type of ~~device or system designed to~~  
23 ~~prevent physical entrapment that has~~ *devices or systems designed*  
24 *to prevent physical entrapment that have been installed and the*  
25 *date pursuant to subdivision (d) in a public swimming pool with*  
26 *a single main drain that is not an unblockable drain and the date*  
27 *or dates of installation or the reason why the requirement is not*  
28 *applicable.*

29 (4) A signature and license number of a qualified individual  
30 who certifies that the factual information provided on the form in  
31 response to paragraphs (1) to (3), inclusive, is true to the best of  
32 his or her knowledge.

33 ~~(h) A material failure on the part of a qualified individual to~~  
34 ~~comply with subdivision (g) shall subject that individual to~~

35 *(h) A qualified individual who improperly certifies information*  
36 *pursuant to paragraph (4) of subdivision (g) shall be subject to*  
37 *potential disciplinary action at the discretion of the licensing*  
38 *authority.*

39 (i) Except as provided in subdivision (f), each public swimming  
40 pool owner shall file a completed copy of the form issued by the

department pursuant to this section with the city, county, or city and county department of environmental health in the city, county, or city and county in which the swimming pool is located. The form shall be filed within 30 days following the completion of the swimming pool construction or installation required pursuant to this section or, if the construction or installation is completed prior to the date that the department issues the form pursuant to this section, within 30 days of the date that the department issues the form. The public swimming pool owner or operator shall not make a false statement, representation, certification, record, report, or otherwise falsify information that he or she is required to file or maintain pursuant to this section.

(j) In enforcing this section, health officers and directors of city, county, or city and county departments of environmental health shall consider documentation filed on or with the form issued pursuant to this section by the owner of a public swimming pool as evidence of compliance with this section. A city, county, or city and county department of environmental health may verify the accuracy of the information filed on or with the form.

(k) To the extent that the requirements for public wading pools imposed by Section 116064 conflict with this section, the requirements of this section shall prevail.

(l) Local health departments may impose a fee on owners of public swimming pools in an amount to cover the actual costs of enforcement imposed pursuant to Section 116064.1 and this section, but in no case shall this fee exceed one dollar (\$1).

(m) (1) Until January 1, 2014, and in addition to any fee imposed by local health officials pursuant to subdivision (l), the department may assess an annual fee on the owners of each public swimming pool, to be collected by the applicable local health department, in an amount not to exceed the amount necessary to defray the department's costs of carrying out its duties under Section 116064.1 and this section but in no case shall this fee exceed five dollars (\$5).

(2) The local health department shall bill the owner of each public swimming pool in its jurisdiction for the amount of the state fee. The local health department shall transmit the collected state fee to the Controller for deposit into the Recreational Health Fund, which is hereby created in the State Treasury. The local health department shall not be required to take action to collect an unpaid

1 state fee, but shall submit to the department, every six months, a  
2 list containing the name and address of the owner of each public  
3 swimming pool who has failed to pay the state fee for more than  
4 90 days after the date that the bill was provided to the owner of  
5 the public swimming pool.

6 (3) Owners that are exempt from local swimming pool permit  
7 fees shall also be exempt from the fees imposed pursuant to this  
8 subdivision.

9 (4) All moneys collected by the department pursuant to this  
10 section shall be deposited into the Recreational Health Fund.  
11 Notwithstanding Section 16305.7 of the Government Code, interest  
12 and dividends on moneys in the Recreational Health Fund shall  
13 also be deposited in the fund. Moneys in the fund shall, upon  
14 appropriation by the Legislature, be available to the department  
15 for carrying out its duties under Section 116064.1 and this section  
16 and shall not be redirected for any other purpose.

17 SEC. 4. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution for certain  
19 costs that may be incurred by a local agency or school district  
20 because, in that regard, this act creates a new crime or infraction,  
21 eliminates a crime or infraction, or changes the penalty for a crime  
22 or infraction, within the meaning of Section 17556 of the  
23 Government Code, or changes the definition of a crime within the  
24 meaning of Section 6 of Article XIII B of the California  
25 Constitution.

26 No reimbursement is required by this act pursuant to Section 6  
27 of Article XIII B of the California Constitution for certain other  
28 costs that may be incurred by a local agency or school district  
29 because a local agency or school district has the authority to levy  
30 service charges, fees, or assessments sufficient to pay for the  
31 program or level of service mandated by this act, within the  
32 meaning of Section 17556 of the Government Code.